

U.S. Patent Application No. 10/628,281
Amendment After Final Rejection dated April 4, 2008
In Response to the Office Action Dated January 4, 2008

REMARKS

Continued examination and favorable reconsideration of the above-identified application are respectfully requested. Claim 33 has been canceled without prejudice or disclaimer.

Finality of the Office Action

The Examiner is respectfully requested to withdraw the finality of the Office Action of January 4, 2008. The Office Action does not make apparent how Applicant's amendment to the claims, dated October 18, 2007, forms the basis for making the Office Action of January 4, 2008, final. Nowhere does the Office Action state that Applicant's amendment of October 18, 2007, necessitated the new grounds for rejection based on Hunt et al. Accordingly, reconsideration and withdrawal of the finality of the Office Action of January 4, 2008, are respectfully requested.

Rejection of Claims Under 35 U.S.C. §112

At page 2 of the Office Action, the Examiner states that claims 1-23 and 33 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. For the reasons set-forth below, this rejection is respectfully traversed.

The Examiner states that claims 1-23 and 33 are rejected under 35 U.S.C. §112, second paragraph, as being allegedly incomplete for omitting essential steps, such omission amounting to a gap between the steps. The Examiner indicates that it is not clear whether the claimed method requires the use of different diluents, such as a binding buffer and then an elution buffer to elute the captured material of interest.

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Applicant respectfully points out that elution is not an essential step of claims 1-23. As described in paragraph [0039] of the present application, for example, in some embodiments the purification material can be any material that is capable of retaining an undesired species, from a fluid sample, on the purification column, while not retaining desired species. Thus, the purification material can comprise, for example, an ion-exchange resin matrix that captures undesirable ions while allowing the purified sample to pass through. At least in these such embodiments, an eluent is not required, nor is the use of different buffers. Accordingly, the features of present claims 1-23 are neither disclosed nor suggested by Hunt et al.

Claim 33 has been canceled, rendering the rejection of this claim moot.

Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Rejection of Claims Under 35 U.S.C. §102

At page 3 of the Office Action, claims 1-17, 23, and 33 are rejected under 35 U.S.C. §102(e) as being anticipated by Hunt et al. (U.S. Patent Application Publication No. 2002/0110495. For the reasons set-forth below, this rejection is respectfully traversed.

Hunt et al. fails to disclose or suggest all of the features of the claimed invention. The Office Action fails to address the features of claim 1 added by Applicant in the Amendment filed October 18, 2007, namely: (1) moving excess diluent from the purification column into the output reservoir to provide the purification material free of excess diluent; and (2) after moving excess diluent into the output reservoir, moving the fluid sample through the purification column. The Examiner states at page 3 of the Office Action, that Hunt et al. “anticipates that the fluid sample to be processed is placed in the sample chamber 22 with a diluent or binding buffer....” Emphasis

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added. Such a teaching in Hunt et al., however, is clearly inconsistent with the features of the present claims, which specify introducing a fluid sample into a purification column after moving excess diluent from the purification column into an output reservoir. Moreover, Hunt et al. fails to disclose or suggest moving excess diluent out of a purification column to provide the purification material free of excess diluent, prior to moving a fluid sample through the purification column. In Hunt et al., excess diluent or buffer is moved out of a purification column with a fluid sample, not before the fluid sample is introduced or moved through the purification column.

Applicant respectfully submits that the features of present claim 1 are neither disclosed nor suggested by Hunt et al. Claim 33 has been canceled, rendering the rejection of this claim moot.

Accordingly, reconsideration and withdrawal of the rejection to claim 1, and the claims dependent thereon, are respectfully requested.

Rejection of Claims Under 35 U.S.C. §103(a)

At page 5 of the Office Action, claims 1-23 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hunt et al. (U.S. Patent Application Publication No. 2002/0110495. The Examiner states that it would have been obvious to a person of ordinary skill in the art to mix the purified sample after elution, with the remaining diluent flowing through the column and in the output reservoir or tube 8 as the sample fluid flows through the device during operation. For the reasons set-forth below, this rejection is respectfully traversed.

As described above, the Office Action again fails to address the features of claim 1 added by Applicant in the Amendment filed October 18, 2007, namely: (1) moving excess diluent out of the purification column to provide the purification material free of excess diluent; and (2) after

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moving excess diluent into the output reservoir, moving a fluid sample through the purification column. These features are neither disclosed nor suggested by Hunt et al. Applicant further submits that Hunt et al. fails to provide any direction, suggestion, or motivation for arriving at the claimed methods. In fact, if Hunt et al. “anticipates that the fluid sample to be processed is placed in the sample chamber 22 with a diluent or binding buffer,” as suggested by the Examiner, such a teaching clearly teaches away from the present claims. As such, one of ordinary skill in the art would not arrive at the claimed methods, given the teachings of Hunt et al.

Claim 33 has been canceled rendering the rejection of claim 33 moot.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

Entry of this Amendment After Final Rejection is deemed proper under 37 C.F.R. § 1.116 because: (1) no new issues are raised; (2) no new claims are added; (3) the number of pending claims is reduced; (4) no need for further searching is necessitated by this response; and (5) the application is in condition for allowance.

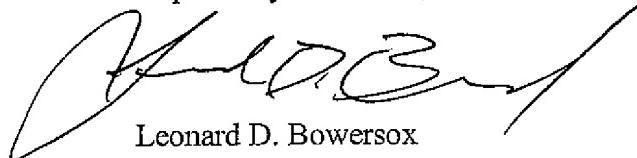
For at least the reasons discussed in detail above, Applicant submits that all pending claims are patentable over the applied reference. Withdrawal of all rejections and timely issuance of a Notice of Allowance are respectfully requested.

Should the Examiner deem that any further action by Applicant or Applicant’s undersigned representative is desirable and/or necessary, the Examiner is invited to telephone the undersigned at the number set forth below.

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If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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